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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD067

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Operation of Offshore Oil and Gas Facilities in the U.S. Beaufort Sea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to BP Exploration (Alaska) Inc. (BP) to take marine mammals, by harassment, incidental to operation of offshore oil and gas facilities in the U.S. Beaufort Sea, Alaska.

DATES: Effective from January 13, 2014, through January 14, 2019.

ADDRESSES: The LOA and supporting documentation may be obtained by writing to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East West Highway, Silver Spring, MD 20910, calling the contact listed under FOR FURTHER INFORMATION CONTACT, or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may also be viewed, by appointment, during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

## Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 et seq.) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental takings may be granted for periods up to 5 years, after notification and opportunity for public comment, if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Regulations governing the take of six species of marine mammals, by Level B harassment, and the take of one species by Level A harassment, serious injury, or mortality incidental to operation of the Northstar development in the Beaufort Sea, Alaska, were issued on December 12, 2013 (78 FR 75488). These regulations are effective from January 13, 2014, through January 14, 2019 (78 FR 75488, December 12, 2013). The species which are authorized for taking by Level B harassment are: bowhead, gray, and beluga whales and ringed, bearded, and spotted seals. BP is also authorized to take five individual ringed seals by injury or mortality

annually over the course of the 5-year rule. For detailed information on this action, please refer to the final rule (78 FR 75488, December 12, 2013). These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during operation and maintenance activities at the BP Northstar development facility.

This LOA is effective from January 13, 2014, through January 14, 2019, and authorizes the incidental take of the six marine mammal species listed above that may result from operations, including maintenance activities, at the BP Northstar development in the U.S. Beaufort Sea.

Potential effects of BP's operation of the Norsthar development involve both acoustic and non-acoustic effects. Potential non-acoustic effects could result from the physical presence of personnel, structures and equipment, construction or maintenance activities, and the occurrence of oil spills. Ice road construction may also impact ringed seals. A major oil spill is unlikely. Potential acoustic effects could result from island construction, maintenance, and drilling, as well as vehicles operating on the ice, vessels, aircraft, generators, production machinery, gas flaring, and camp operations. Marine mammals may experience masking and behavioral disturbance.

Take of marine mammals will be minimized through the implementation of the following mitigation measures: (1) Surveying with specially-trained dogs if any ice road or construction activities occur after March 1 in previously undisturbed areas in waters deeper than 10 ft (3 m) in order to identify and avoid ringed seal structures by a minimum of 492 ft (150 m); (2) scheduling all non-essential boat, hovercraft, barge, and air traffic to avoid periods when whales (especially bowhead whales) are migrating through the area; (3) maintaining a minimum altitude of 1,000 ft (305 m) and specific corridor from Seal Island to the mainland for all helicopter flights, except when limited by weather or personnel safety or during takeoffs and landings; (4) establishing

exclusion zones for cetaceans and pinnipeds of 180 and 190 dB re 1  $\mu$ Pa (rms), respectively, when impact pile driving activities will occur; (5) shutting down impact pile driving activities if marine mammals enter the applicable exclusion zones; and (6) no new drilling into oil-bearing strata during either open-water or spring-time broken ice conditions. In addition to these mitigation measures, BP has an oil spill prevention and contingency plan in place, which was developed and approved by the Alaska Department of Environmental Conservation, U.S. Department of Transportation, U.S. Coast Guard, and the former Minerals Management Service. Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate.

Through this LOA, BP is required to monitor for marine mammals using both visual observers and passive acoustic monitoring systems. BP is required to submit an annual report to NMFS by June 1 of each year. The report will include data collected from the visual and acoustic monitoring program during the period of November 1 through October 31 each year. Additional information on the mitigation, monitoring, and reporting requirements can be found in the final rule (78 FR 75488, December 12, 2013). BP is also required to submit a comprehensive report, which shall provide full documentation of methods, results, and interpretation of all monitoring during the period of effectiveness of this LOA.

Dated: January 14, 2014.

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Donna S. Wieting,  
Director,  
Office of Protected Resources,  
National Marine Fisheries Service.

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